



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

BFI Waste Systems of North America, LLC  
c/o Republic Services, Inc.  
Donald Slager, President and CEO  
18500 N. Allied Way  
Phoenix, AZ 85054

FEB 21 2013

**Re: Required Submission of Information  
Lower Darby Creek Area Superfund Site,  
Operable Unit 1 - Clearview Landfill  
Darby Township, Delaware County and and Philadelphia, Pennsylvania**

Dear Mr. Slager:

The U.S. Environmental Protection Agency ("EPA") has received, reviewed, and thanks you for BFI Waste Systems of North America, LLC's previous responses to EPA's Information Request letters related to the Lower Darby Creek Area Superfund Site. Based on information obtained by EPA as part of its continuing investigation, EPA is now seeking information concerning the waste disposal activities of "Bennie's Hauling," "McCusker & Ogborne," and Ace Service Corp., a/k/a Ace Drump Truck between 1958 and 1976 as well as the relationship of BFI Waste Systems of North America, LLC, its affiliates, or its subsidiaries to those entities. This request relates solely to the Clearview Landfill. The specific information required is attached to this letter as Enclosure E.

Pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9604(e), EPA has the authority to require BFI Waste Systems of North America, LLC ("BFI-NA" or "you") to furnish all information and documents in its possession, custody, or control, or in the possession, custody, or control of any of its employees or agents, which concern, refer, or relate to hazardous substances as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), pollutants and/or contaminants as defined by Section 101(33) of CERCLA, 42 U.S.C. § 9601(33), which were transported to, stored, treated, or disposed of at the above-referenced Site.

Please respond in writing to this required submission of information within **thirty (30) calendar days** of your receipt of this letter.

If, for any reason, BFI-NA does not provide all information responsive to this letter, then in its answer to EPA BFI-NA should: (1) describe specifically what was not provided, and (2) provide to EPA an appropriate reason why the information was not provided.

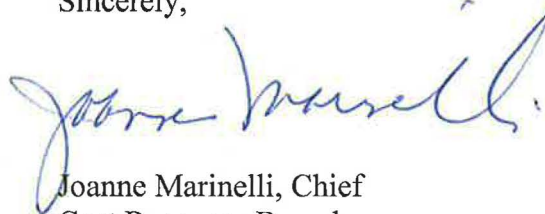
All documents and information should be sent to:

Ms. Maria Goodine (3HS62)  
U.S. Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

This required submission of information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. Section 3501, et seq.

If you have any questions concerning this matter, please contact Compliance Officer Maria Goodine at (215) 814-2488, or have your attorney contact Senior Assistant Regional Counsel Bonnie A. Pugh at (215) 814-2680.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joanne Marinelli".

Joanne Marinelli, Chief  
Cost Recovery Branch

Enclosures: A. Business Confidentiality Claims/Disclosure of Your Response to  
EPA Contractors and Grantees  
B. List of Contractors that May Review Your Response  
C. Definitions  
D. Instructions  
E. Information Requested

cc: Bonnie A. Pugh (3RC43)  
Maria Goodine (3HS62)  
Joshua Barber (3HS21)  
Noreen Wagner (PADEP)  
Jeffrey Martin, Esq.

## **Enclosure A**

### **Business Confidentiality Claims**

You are entitled to assert a claim of business confidentiality covering any part or all of the submitted information, in the manner described in 40 C.F.R. Part 2, Subpart B. Information subject to a claim of business confidentiality will be made available to the public only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. If a claim of business confidentiality is not asserted when the information is submitted to EPA, EPA may make this information available to the public without further notice to you. You must clearly mark such claimed information by either stamping or using any other such form of notice that such information is a trade secret, proprietary, or company confidential. To best ensure that your intent is clear, we recommend that you mark as confidential each page containing such claimed information.

### **Disclosure of Your Response to EPA Contractors and Grantees**

EPA may contract with one or more independent contracting firms (See, Enclosure B) to review the documentation, including documents which you claim are confidential business information ("CBI"), which you submit in response to this information request, depending on available agency resources. Additionally, EPA may provide access to this information to (an) individual(s) working under (a) cooperative agreements(s) under the Senior Environmental Employee Program ("SEE Enrollees"). The SEE Program was authorized by the Environmental Programs Assistance Act of 1984 (Pub. L. 98-313). The contractor(s) and/or SEE Enrollee(s) will be filing, organizing, analyzing and/or summarizing the information for EPA personnel. The contractors have signed a contract with EPA that contains a confidentiality clause with respect to CBI that they handle for EPA. The SEE Enrollee(s) is working under a cooperative agreement that contains a provision concerning the treatment and safeguarding of CBI. The individual SEE Enrollee has also signed a confidentiality agreement regarding treatment of CBI. Pursuant to Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and EPA's regulations at 40 C.F.R. § 2.310(h), EPA may share such CBI with EPA's authorized representatives which include contractors and cooperators under the Environmental Programs Assistance Act of 1984. (See 58 Fed.Reg. 7187 (1993)). If you have any objection to disclosure by EPA of documents which you claim are CBI to any or all of the entities listed in Enclosure B, you must notify EPA in writing at the time you submit such documents.

## Enclosure B

[rev. 10/2012]

### List of Contractors That May Review Your Response

**Emergint Technologies, Inc.**

Contract # EP-W-11-025

Subcontractor: Booz-Allen & Hamilton

**Booz-Allen & Hamilton**

Contract # GS-35F-0306J (GSA Schedule)

**CDM-Federal Programs Corporation**

Contract # EP-S3-07-06

Subcontractors: L. Robert Kimball & Associates Inc.  
Avatar Environmental LLC  
Terradon Corporation

**Chenega Global Services, LLC**

Contract #EP-S3-09-02

**EA Engineering, Science and Technology, Inc.**

Contract #EP-S3-07-07

Subcontractor: URS

**Eisenstein Malanchuck, LLP**

Contract #EP-W-07-079

Subcontractors: R. M. Fields International, LLC  
James C. Hermann & Associated

**Hydrogeologic (HGL)**

Contract #EP-S3-07-05

Subcontractor: CH2MHill  
Sullivan International

**Weston Solutions**

Contract #EP-S3-1005

**Tech Law, Inc.**

Contract #EP-S3-1004

**Tetra Tech NUS, Inc.**

Contract #EP-S3-07-04

**Kemron Environmental Services, Inc.**

Contract #EP-S3-12-01,

Subcontractor: AECOM Technical Services, Inc.

**Guardian Environmental Services Company, Inc.**

Contract #EP-S3-12-02,

Subcontractors: Aerotek, Inc.,  
Tetra Tech, Inc.

**Environmental Restoration, LLC**

Contract # EP-S3-12-03

Subcontractors: Aerotek, Inc  
Haas Environmental, Inc,  
Hertz

**WRS Infrastructure & Environment, Inc.**

Contract # EP-S3-12-05

**Industrial Economics, Inc.**

Contract # EP-W-06-092

Cooperative Agreements

**National Association of Hispanic Elderly**

CA# Q83424401

CA # ARRA 2Q8343730-01

**National Older Workers Career Center**

CA# Q-835030

## Enclosure C

### Definitions

1. The term “arrangement” shall mean every separate contract or other agreement or understanding between two or more persons, whether written or oral.
2. The term “documents” shall mean writings, photographs, sound or magnetic records, drawings, or other similar things by which information has been preserved and also includes information preserved in a form which must be translated or deciphered by machine in order to be intelligible to humans. Examples of documents include, but are not limited to, electronic mail and other forms of computer communication, drafts, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, summaries, pamphlets, books, invoices, checks, bills of lading, weight receipts, toll receipts, offers, contracts, agreements, deeds, leases, manifests, licenses, permits, bids, proposals, policies of insurance, logs, inter-office and intra-office communications, notations of any conversations (including, without limitation, telephone calls, meetings, and other communications such as e-mail), bulletins, printed matter, computer printouts, invoices, worksheets, graphic or oral records or representations of any kind (including, without limitation, charts, graphs, microfiche, microfilm, videotapes, recordings and motion pictures), electronic, mechanical, magnetic or electric records or representations of any kind (including, without limitation, tapes, cassettes, discs, recordings and computer memories), minutes of meetings, memoranda, notes, calendar or daily entries, agendas, notices, announcements, maps, manuals, brochures, reports of scientific study or investigation, schedules, price lists, data, sample analyses, and laboratory reports.
3. The term “hazardous substance” means (a) any substance designated pursuant to section 1321(b)(2)(A) of Title 33 of the U.S. Code, (b) any element, compound, mixture, solution, or substance designated pursuant to Section 9602 of CERCLA, (c) any hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act (42 U.S.C. § 6921) (but not including any waste the regulation of which under the Solid Waste Disposal Act, 42 U.S.C. § 6901 *et seq.*, has been suspended by Act of Congress), (d) any toxic pollutant listed under Section 1317(a) of Title 33, (e) any hazardous air pollutant listed under section 112 of the Clean Air Act, 42 U.S.C. § 7412, and (f) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to Section 2606 of Title 15 of the U.S. Code. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (a) through (f) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

4. The term “pollutant or contaminant” shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations in such organisms or their offspring, except that the term "pollutant or contaminant" shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under CERCLA, and shall not include natural gas, liquefied natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas).
5. The term “release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant), but excludes (a) any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons, (b) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine, (c) release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, 42 U.S.C. § 2011 et seq., if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under Section 170 of such Act, 42 U.S.C. § 2210, or, for the purposes of Section 9604 of CERCLA or any other response action, any release of source, byproduct, or special nuclear material from any processing site designated under 42 U.S.C. §§ 7912(a)(1) and 7942(a) and (d) the normal application of fertilizer.
6. The term “waste” or “wastes” shall mean and include any discarded materials including, but not limited to, trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, pollutants or contaminants, and discarded or spilled chemicals, whether solid, liquid, or sludge.
7. The term “you” when referring to an incorporated entity shall mean and include the incorporated entity and its agents and representatives, including, but not limited to, persons directly authorized to transact business on the entity’s behalf such as officers, directors, or partners with which the entity is affiliated, employees, accountants, engineers, or other persons who conduct business on the entity’s behalf, as well as affiliated entities, including, but not limited to, partnerships, limited liability companies, divisions, subsidiaries, and holding companies.

## **Enclosure D**

### **Instructions**

1. You are entitled to assert a claim of business confidentiality covering any part or all of the information you submit. If you desire to assert a claim of business confidentiality, please see Enclosure A, *Business Confidentiality Claims/Disclosure of Your Response to EPA Contractors and Grantees*. You must clearly mark such information by either stamping or using any other form of notice that such information is a trade secret, proprietary, or company confidential. To ensure to the greatest extent that your intent is clear, we recommend that you mark as confidential each page containing such claimed information.
2. Please provide a separate, detailed narrative response to each question, and to each subpart of each question, set forth in this Information Request. If you fail to provide a detailed response, EPA may deem your response to be insufficient and thus a failure to comply with this Information Request, which may subject you to penalties.
3. Precede each response with the number of the question or subpart of the question to which it corresponds. For each document or group of documents produced in response to this Information Request, indicate the number of the specific question or subpart of the question to which the document(s) responds.
4. Should you find at any time after submission of your response that any portion of the submitted information is false, misrepresents the truth or is incomplete, you must notify EPA of this fact and provide EPA with a corrected written response.
5. Any terms that are used in this Information Request and/or its Enclosures that are defined in CERCLA shall have the meaning set forth in CERCLA. Definitions of several such terms are set forth in Enclosure C, *Definitions*, for your convenience. Also, several additional terms not defined in CERCLA are defined in Enclosure C. Those terms shall have the meaning set forth in Enclosure C any time such terms are used in this Information Request and/or its Enclosures.



## Enclosure E

### Information Required

EPA has reason to believe that BFI Waste Systems of North America, LLA or one of its affiliates or subsidiaries may have purchased, merged, or otherwise acquired the following entities: “Bennie’s Hauling,” “McCusker & Ogborne,” and Ace Service Corp. a/k/a Ace Dump Truck.

In the following questions, the terms “you” and “your” refer to BFI Waste Systems of North America, LLC. The term “Philadelphia area” refers to southeastern Pennsylvania and southern New Jersey.

The following questions relate to the entity known as “Bennie’s Hauling.”

1. Describe “Bennie’s Hauling’s” corporate history in detail. Your answer should include:
  - a. The date and state of “Bennie’s Hauling’s” incorporation, or if it is not incorporated, the date and state of “Bennie’s Hauling’s” formation;
  - b. “Bennie’s Hauling’s” full and correct corporate or business name;
  - c. A list of “Bennie’s Hauling’s” shareholders, directors, officers, or members.
2. Please provide any and all information and records regarding your purchase or acquisition of, or merger with “Bennie’s Hauling,” or the purchase or acquisition of, or merger with, “Bennie’s Hauling” by your subsidiaries or affiliates.
  - a. The purpose of the purchase, acquisition, or merger;
  - b. The date of the sale;
  - c. The sale price;
  - d. A list of the equipment, buildings, and other business capital that was included in the sale, acquisition, or merger;
  - e. A list of all waste transportation contracts included or referenced in the purchase or merger agreement;
  - f. A list of all the agreements and/or contracts included or referenced in the purchase or merger agreement; and
  - g. The names, title, addresses and phone numbers of any of your employees or representatives that may have knowledge of the purchase or merger agreement and its terms.
3. List and provide the following information regarding former “Bennie’s Hauling” employees:
  - a. The names and dates of employment of each of those employees;
  - b. The job title and responsibilities of each of those employees; and
  - c. The current addresses and phone numbers of each of those employees.
4. List and provide all records regarding the waste types and quantities transported by “Bennie’s Hauling” or its successors to Clearview.



5. List and provide all records regarding the customers serviced by "Bennie's Hauling" or its successors that may have been transported to Clearview. For each of these customers, include the following information:
  - a. The names, addresses and business types of each customer;
  - b. The types and quantities of waste materials generated by each customer;
  - c. How and where the waste materials were collected from each customer;  
and
  - d. The services in addition to waste pickup and transportation, provided by you to each of these customers.
6. Please describe in detail the document and record retention policies of "Bennie's Hauling," BFI Waste Systems of North America, LLC, and any other company or entity, including any intermediary owner, which purchased, acquired, or merged with "Bennie's Hauling."

The following questions relate to the entity known as "McCusker & Ogborne."

7. Describe "McCusker & Ogborne's" corporate history in detail. Your answer should include:
  - a. The date and state of "McCusker & Ogborne's" incorporation, or if it is not incorporated, the date and state of "McCusker & Ogborne's" formation;
  - b. "McCusker & Ogborne's" full and correct corporate or business name;
  - c. A list of "McCusker & Ogborne's" shareholders, directors, officers, or members.
8. Please provide any and all information and records regarding your purchase or acquisition of, or merger with "McCusker & Ogborne," or the purchase or acquisition of, or merger with "McCusker & Ogborne" by your subsidiaries.
  - a. The purpose of the purchase, acquisition, or merger;
  - b. The date of the sale;
  - c. The sale price;
  - d. A list of the equipment, buildings, and other business capital that was included in the sale, acquisition, or merger;
  - e. A list of all waste transportation contracts included or referenced in the purchase or merger agreement;
  - f. A list of all the agreements and/or contracts included or referenced in the purchase or merger agreement; and
  - g. The names, title, addresses and phone numbers of any of your employees or representatives that may have knowledge of the purchase or merger agreement and its terms.
9. List and provide the following information regarding former "McCusker & Ogborne" employees:
  - a. The names and dates of employment of each of those employees;
  - b. The job title and responsibilities of each of those employees; and

- c. The current addresses and phone numbers of each of those employees.
- 10. List and provide all records regarding the waste types and quantities transported by "McCusker & Ogborne" or its successors to Clearview.
- 11. List and provide all records regarding the customers serviced by "McCusker & Ogborne" or its successors that may have been transported to Clearview. For each of these customers, include the following information:
  - a. The names, addresses and business types of each customer;
  - b. The types and quantities of waste materials generated by each customer;
  - c. How and where the waste materials were collected from each customer; and
  - d. The services in addition to waste pickup and transportation, provided by you to each of these customers.
- 12. Please describe in detail the document and record retention policies of McCusker & Ogborne, BFI Waste Systems of North America, LLC, and any other company or entity, including any intermediary owner, which purchased, acquired, or merged with McCusker & Ogborne.

The following questions relate to the entity known as Ace Service Corp, a/k/a Ace Dump Truck ("Ace")

- 13. Please provide any and all information and records regarding your purchase or acquisition of, or merger with Ace, a Pennsylvania corporation, or the purchase or acquisition of, or merger with Ace by your subsidiaries.
  - a. The purpose of the purchase, acquisition, or merger;
  - b. The date of the sale;
  - c. The sale price;
  - d. A list of the equipment, buildings, and other business capital that was included in the sale, acquisition, or merger;
  - e. A list of all waste transportation contracts included or referenced in the purchase or merger agreement;
  - f. A list of all the agreements and/or contracts included or referenced in the purchase or merger agreement; and
  - g. The names, title, addresses and phone numbers of any of your employees or representatives that may have knowledge of the purchase or merger agreement and its terms.
- 14. List and provide the following information regarding former Ace employees:
  - a. The names and dates of employment of each of those employees;
  - b. The job title and responsibilities of each of those employees; and
  - c. The current addresses and phone numbers of each of those employees.
- 15. List and provide all records regarding the waste types and quantities transported by Ace or its successors to Clearview.

16. List and provide all records regarding the customers serviced by Ace or its successors that may have been transported to Clearview. For each of these customers, include the following information:
  - a. The names, addresses and business types of each customer;
  - b. The types and quantities of waste materials generated by each customer;
  - c. How and where the waste materials were collected from each customer; and
  - d. The services in addition to waste pickup and transportation, provided by you to each of these customers.
17. Please describe in detail the document and record retention policies of Ace, BFI Waste Systems of North America, LLC, and any other company or entity, including any intermediary owner, which purchased, acquired, or merged with Ace.